

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., d/b/a
TODAY'S HEALTH and DIRECT FULFILLMENT,
ITV DIRECT, INC., d/b/a DIRECT FULFILLMENT,
DONALD W. BARRETT,
HEALTHY SOLUTIONS, LLC d/b/a DIRECT
BUSINESS CONCEPTS,
HEALTH SOLUTIONS, INC.,
ALEJANDRO GUERRERO, a/k/a ALEX GUERRERO,
MICHAEL HOWELL, GREG GEREMESZ,
TRIAD ML MARKETING, INC., KING MEDIA, INC.,
and ALLEN STERN,

Defendants.

Civ. No. 04-11136 - GAO

**DECLARATION OF DANIEL KAUFMAN IN SUPPORT OF PLAINTIFF'S
MOTION FOR LEAVE TO NAME ADDITIONAL DEFENDANT AND RELIEF
DEFENDANTS AND TO FILE FIRST AMENDED COMPLAINT**

1. I am an attorney for the plaintiff, Federal Trade Commission ("FTC" or "Commission"). I am a member in good standing of the bar of the State of New York.
2. I have been involved in the Commission's investigation of Coral Calcium Daily and Supreme Greens and the subsequent litigation and have personal knowledge of the matters contained in this declaration.

UNAUTHORIZED BILLING OF CORAL CALCIUM CONSUMERS

3. After filing the Complaint in this action, the Commission served a document subpoena on former Direct Marketing Concepts employee Scott Sarver. Attached hereto as

Exhibit 1 are true and correct copies of some of the documents received from Mr. Sarver. These documents have been redacted to remove consumers' personal identifying information. These documents appear to be print-outs from Direct Marketing Concepts' sales database that reflect consumers complaining that when they ordered Coral Calcium from Direct Marketing Concepts, they were subsequently billed for products that they did not order. The Commission obtained dozens more very similar documents from Mr. Sarver.

LIABILITY DEFENDANT ROBERT MAIHOS

4. Attached hereto as Exhibit 2 is a true and accurate copy of the Affidavit of Robert Maihos, dated June 4, 2004.

5. Attached hereto as Exhibit 3 is a true and correct copy of a facsimile from Peter S. Brooks of Seyfarth Shaw to Robert Maihos, dated October 3, 2003, with an attached copy of the Supreme Greens infomercial transcript with handwritten comments.

6. I have reviewed financial documents prepared by Direct Marketing Concepts and ITV Direct that state that Robert Maihos owns 50% of the stock of Direct Marketing Concepts and ITV Direct.

7. I have reviewed numerous checks written on the bank accounts of ITV Direct and/or Direct Marketing Concepts and have observed that Robert Maihos signed numerous of said checks. In addition, attached hereto as Exhibit 4 is an email from Wayne Callahan to Robert Maihos dated November 2, 2003 regarding a new merchant credit card processor.

RELIEF DEFENDANTS

8. Attached hereto as Exhibit 5 is the June 7, 2004 Declaration of Allen Stern that was submitted in connection with this litigation. Several of the wire transfers attached to the Stern Declaration state that transfers were made to an entity called "BP Marketing." Pursuant to a subpoena, the Commission received bank records that showed that the transfers in question went into the account of "BP International, Inc.," the entity that the Commission proposes naming as a relief defendant.

9. I have reviewed financial documents produced by Triad ML Marketing and King Media. These documents indicate that Steven Ritchey owns one third of Triad ML Marketing and King Media and Lisa Stern is the previous owner of at least one third of Triad ML Marketing and King Media.

10. I have reviewed the 2002 tax records of defendants King Media and Triad ML Marketing. Because these documents contain confidential financial and personal information, I am not attaching copies to this declaration. However, my review of these documents has shown that in 2002 – which is the period of time during which King Media and Triad ML Marketing were involved in the sale of Coral Calcium Daily through the challenged infomercial – substantial subchapter-S distributions were made by Triad to both Lisa Stern and Steven Ritchey. These distributions were far in excess of what one would reasonably assume to be salaries for work performed.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the statements made in this declaration are true and correct.



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